



INTERIOR BOARD OF INDIAN APPEALS

Eddie Addison v. Acting Great Plains Regional Director,  
Bureau of Indian Affairs

39 IBIA 216 (12/18/2003)



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
801 NORTH QUINCY STREET  
SUITE 300  
ARLINGTON, VA 22203

EDDIE ADDISON,	:	Order Docketing and Dismissing Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 04-18-A
ACTING GREAT PLAINS REGIONAL	:	
DIRECTOR, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee	:	December 18, 2003

Appellant Eddie Addison sought review of a May 30, 2003, decision of the Acting Great Plains Regional Director, Bureau of Indian Affairs (Regional Director), concerning the sale of his 1/3 interest in Allotment No. OS-6555 on the Pine Ridge Reservation. For the reason below, the Board of Indian Appeals (Board) docketed but dismisses this appeal as untimely.

The Regional Director's decision was dated May 30, 2003. In it, the Regional Director gave instructions to appeal the decision to the Board within 30 days from the receipt of the decision. Appellant stated in his notice of appeal that he received the decision on or about June 15, 2003. Thus, Appellant's appeal should have been filed by July 16, 2003.

In its November 17, 2003, pre-docketing notice and order to show cause, the Board gave Appellant an opportunity to show why the appeal should be accepted even though the Board did not receive his notice of appeal until November 14, 2003, well after the time period for filing an appeal. In order to assist Appellant in making the showing, the Board provided a copy of American Land Development Corp. v. Acting Phoenix Area Director, 25 IBIA 120 (1994), recon. denied, 25 IBIA 197 (1994).

The Board received Appellant's response on December 16, 2003. He attached an original affidavit, notarized but not sealed, of Magda Canaday stating that while she was employed with Pechota, Leach & Dewell, L.L.P., she mailed the notice of appeal to the Board. Canaday does not, however, provide any proof of mailing other than her recollection.

In America Land Development Corp., the Board found unpersuasive similar statements from an attorney submitted in support of the allegation that a notice of appeal had been timely filed. See also Howard Crow Flies High v. Rocky Mountain Regional Director, 38 IBIA 3, 4-5 (2002). The Board similarly finds Canaday's statement here insufficient to support a conclusion that the notice of appeal was actually mailed to the Board.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this appeal is docketed but dismissed as untimely.

\_\_\_\_\_  
//original signed

Kathleen R. Supernaw  
Acting Administrative Judge

\_\_\_\_\_  
//original signed

Kathryn A. Lynn  
Administrative Judge